

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 05-90
)	ELECTRONICALLY FILED
REX HAROLD ASHLEY, JR.)	

Order of Court

On April 14, 2005, defendant waived his right to indictment and plead guilty to a two count information charging him with armed bank robbery and interstate transportation of a stolen vehicle on or about January 11, 2005. On January 25, 2007, this Court held a hearing regarding revocation of supervised release in Criminal No. 06-338, at which defendant admitted his violation and this Court sentenced him to a term of 30 months imprisonment. Then, on March 9, 2007, in Criminal No. 05-90, defendant was sentenced by this Court to a term of 84 months imprisonment at count one and 84 months at count 2, to run concurrent to each other, and to run concurrent to the sentence for violating his supervised release at Criminal No. 06-338.

Defendant has now filed a *pro se* motion for clarification of sentence seeking credit for the time period between January 25, 2007 and March 9, 2007, and asking that the Court order said period to run concurrent to the 84 months at Criminal No. 05-90. The Court will construe this motion as a petition for habeas corpus relief under 28 U.S.C. § 2241.

Because defendant has not exhausted his available administrative remedies within the Bureau of Prisons, as is required, *Bradie v. Warden*, 2009 WL 3415163 (D.N.J. October 21, 2009), the Court will deny defendant's motion (doc. no. 55) without prejudice. Additionally, after exhausting his administrative remedies, defendant's petition for habeas corpus relief under

28 U.S.C. § 2241 is more properly directed to the United States District where the petitioner is incarcerated (West Virginia). *See Barden v. Keohane*, 921 F.2d 476 (3d Cir. 1990).

SO ORDERED this 4th day of February, 2010.

s/Arthur J. Schwab

Arthur J. Schwab

United States District Judge

cc: All counsel of record

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